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SENATE BILL 5657

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Keiser, Delvin, Hewitt, Hobbs, Oemig, Murray, Tom, Brandland, Rockefeller, McAuliffe and Kohl-Welles

Read first time 01/26/2007. Referred to Committee on Health & Long-Term Care.

1            AN ACT Relating to creating the revised uniform anatomical gift  
2 act; adding a new chapter to Title 68 RCW; repealing RCW 68.50.520,  
3 68.50.530, 68.50.540, 68.50.550, 68.50.560, 68.50.570, 68.50.580,  
4 68.50.590, 68.50.600, 68.50.610, and 68.50.620; and prescribing  
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.** This chapter may be cited as the revised  
8 uniform anatomical gift act.

9            NEW SECTION.    **Sec. 2.** The definitions in this section apply  
10 throughout this chapter unless the context clearly requires otherwise.

11            (1) "Adult" means an individual who is at least eighteen years old.

12            (2) "Agent" means an individual:

13            (a) Authorized to make health care decisions on the principal's  
14 behalf by a power of attorney for health care; or

15            (b) Expressly authorized to make an anatomical gift on the  
16 principal's behalf by any other record signed by the principal.

17            (3) "Anatomical gift" means a donation of all or part of a human

1 body to take effect after the donor's death for the purpose of  
2 transplantation, therapy, research, or education.

3 (4) "Decedent" means a deceased individual whose body or part is or  
4 may be the source of an anatomical gift. The term includes a stillborn  
5 infant and, subject to restrictions imposed by law other than this  
6 chapter, a fetus.

7 (5) "Disinterested witness" means a witness other than the spouse,  
8 child, parent, sibling, grandchild, grandparent, or guardian of the  
9 individual who makes, amends, revokes, or refuses to make an anatomical  
10 gift, or another adult who exhibited special care and concern for the  
11 individual. The term does not include a person to which an anatomical  
12 gift could pass under section 11 of this act.

13 (6) "Document of gift" means a donor card or other record used to  
14 make an anatomical gift. The term includes a statement or symbol on a  
15 driver's license, identification card, or donor registry.

16 (7) "Donor" means an individual whose body or part is the subject  
17 of an anatomical gift.

18 (8) "Donor registry" means a database that contains records of  
19 anatomical gifts and amendments to or revocations of anatomical gifts.

20 (9) "Driver's license" means a license or permit issued by the  
21 department of licensing to operate a vehicle, whether or not conditions  
22 are attached to the license or permit.

23 (10) "Eye bank" means a person that is licensed, accredited, or  
24 regulated under federal or state law to engage in the recovery,  
25 screening, testing, processing, storage, or distribution of human eyes  
26 or portions of human eyes.

27 (11) "Guardian" means a person appointed by a court to make  
28 decisions regarding the support, care, education, health, or welfare of  
29 an individual. The term does not include a guardian ad litem.

30 (12) "Hospital" means a facility licensed as a hospital under the  
31 law of any state or a facility operated as a hospital by the United  
32 States, a state, or a subdivision of a state.

33 (13) "Identification card" means an identification card issued by  
34 the department of licensing.

35 (14) "Know" means to have actual knowledge.

36 (15) "Minor" means an individual who is less than eighteen years  
37 old.

1 (16) "Organ procurement organization" means a person designated by  
2 the secretary of the United States department of health and human  
3 services as an organ procurement organization.

4 (17) "Parent" means a parent whose parental rights have not been  
5 terminated.

6 (18) "Part" means an organ, an eye, or tissue of a human being.  
7 The term does not include the whole body.

8 (19) "Person" means an individual, corporation, business trust,  
9 estate, trust, partnership, limited liability company, association,  
10 joint venture, public corporation, government or governmental  
11 subdivision, agency, or instrumentality, or any other legal or  
12 commercial entity.

13 (20) "Physician" means an individual authorized to practice  
14 medicine or osteopathy under the law of any state.

15 (21) "Procurement organization" means an eye bank, organ  
16 procurement organization, or tissue bank.

17 (22) "Prospective donor" means an individual who is dead or near  
18 death and has been determined by a procurement organization to have a  
19 part that could be medically suitable for transplantation, therapy,  
20 research, or education. "Prospective donor" does not include an  
21 individual who has made a refusal.

22 (23) "Reasonably available" means able to be contacted by a  
23 procurement organization without undue effort and willing and able to  
24 act in a timely manner consistent with existing medical criteria  
25 necessary for the making of an anatomical gift.

26 (24) "Recipient" means an individual into whose body a decedent's  
27 part has been or is intended to be transplanted.

28 (25) "Record" means information relating to an anatomical gift that  
29 is inscribed on a tangible medium or that is stored in an electronic or  
30 other medium and is retrievable in perceivable form.

31 (26) "Refusal" means a record created under section 7 of this act  
32 that expressly states an intent to bar other persons from making an  
33 anatomical gift of an individual's body or part.

34 (27) "Sign" means, with the present intent to authenticate or adopt  
35 a record relating to an anatomical gift:

36 (a) To execute or adopt a tangible symbol; or

37 (b) To attach to or logically associate with the record an  
38 electronic symbol, sound, or process.

1 (28) "State" means a state of the United States, the District of  
2 Columbia, Puerto Rico, the United States Virgin Islands, or any  
3 territory or insular possession subject to the jurisdiction of the  
4 United States.

5 (29) "Technician" means an individual determined to be qualified to  
6 remove or process parts by an appropriate organization that is  
7 licensed, accredited, or regulated under federal or state law. The  
8 term includes an enucleator.

9 (30) "Tissue" means a portion of the human body other than an organ  
10 or an eye. The term does not include blood unless the blood is donated  
11 for the purpose of research or education.

12 (31) "Tissue bank" means a person that is licensed, accredited, or  
13 regulated under federal or state law to engage in the recovery,  
14 screening, testing, processing, storage, or distribution of tissue.

15 (32) "Transplant hospital" means a hospital that furnishes organ  
16 transplants and other medical and surgical specialty services required  
17 for the care of transplant patients.

18 NEW SECTION. **Sec. 3.** This chapter applies to an anatomical gift  
19 or amendment to, revocation of, or refusal to make an anatomical gift,  
20 whenever made.

21 NEW SECTION. **Sec. 4.** Subject to section 8 of this act, an  
22 anatomical gift of a donor's body or part may be made during the life  
23 of the donor in the manner provided in section 5 of this act by:

24 (1) The donor, if the donor is an adult or if the donor is a minor  
25 and is:

26 (a) Emancipated; or

27 (b) Authorized under state law to apply for a driver's license  
28 because the donor is at least fifteen and one-half years old;

29 (2) An agent of the donor, unless the power of attorney for health  
30 care or other record prohibits the agent from making an anatomical  
31 gift;

32 (3) A parent of the donor, if the donor is an unemancipated minor;  
33 or

34 (4) The donor's guardian.

35 NEW SECTION. **Sec. 5.** (1) A donor may make an anatomical gift:

1 (a) By authorizing a statement or symbol indicating that the donor  
2 has made an anatomical gift to be imprinted on the donor's driver's  
3 license or identification card;

4 (b) In a will;

5 (c) During a terminal illness or injury of the donor, by any form  
6 of communication addressed to at least two adults, at least one of whom  
7 is a disinterested witness; or

8 (d) As provided in subsection (2) of this section.

9 (2) A donor or other person authorized to make an anatomical gift  
10 under section 4 of this act may make a gift by a donor card or other  
11 record signed by the donor or other person making the gift or by  
12 authorizing that a statement or symbol indicating that the donor has  
13 made an anatomical gift be included on a donor registry. If the donor  
14 or other person is physically unable to sign a record, the record may  
15 be signed by another individual at the direction of the donor or other  
16 person and must:

17 (a) Be witnessed by at least two adults, at least one of whom is a  
18 disinterested witness, who have signed at the request of the donor or  
19 the other person; and

20 (b) State that it has been signed and witnessed as provided in (a)  
21 of this subsection.

22 (3) Revocation, suspension, expiration, or cancellation of a  
23 driver's license or identification card through which an anatomical  
24 gift has been made does not invalidate the gift.

25 (4) An anatomical gift made by will takes effect upon the donor's  
26 death whether or not the will is probated. Invalidation of the will  
27 after the donor's death does not invalidate the gift.

28 NEW SECTION. **Sec. 6.** (1) Subject to section 8 of this act, a  
29 donor or other person authorized to make an anatomical gift under  
30 section 4 of this act may amend or revoke an anatomical gift by:

31 (a) A record signed by:

32 (i) The donor;

33 (ii) The other person; or

34 (iii) Subject to subsection (2) of this section, another individual  
35 acting at the direction of the donor or the other person if the donor  
36 or other person is physically unable to sign; or

1 (b) A later-executed document of gift that amends or revokes a  
2 previous anatomical gift or portion of an anatomical gift, either  
3 expressly or by inconsistency.

4 (2) A record signed pursuant to subsection (1)(a)(iii) of this  
5 section must:

6 (a) Be witnessed by at least two adults, at least one of whom is a  
7 disinterested witness, who have signed at the request of the donor or  
8 the other person; and

9 (b) State that it has been signed and witnessed as provided in (a)  
10 of this subsection.

11 (3) Subject to section 8 of this act, a donor or other person  
12 authorized to make an anatomical gift under section 4 of this act may  
13 revoke an anatomical gift by the destruction or cancellation of the  
14 document of gift, or the portion of the document of gift used to make  
15 the gift, with the intent to revoke the gift. The donor or other  
16 person shall notify the Washington organ procurement organization of  
17 the destruction or cancellation of the document of gift for the purpose  
18 of removing the individual's name from the organ and tissue donor  
19 registry created in RCW 68.50.635. If the Washington state organ  
20 procurement organization that is notified does not maintain a registry  
21 for Washington residents, it shall notify all Washington state  
22 procurement organizations that do maintain such a registry.

23 (4) A donor may amend or revoke an anatomical gift that was not  
24 made in a will by any form of communication during a terminal illness  
25 or injury addressed to at least two adults, at least one of whom is a  
26 disinterested witness.

27 (5) A donor who makes an anatomical gift in a will may amend or  
28 revoke the gift in the manner provided for amendment or revocation of  
29 wills or as provided in subsection (1) of this section.

30 NEW SECTION. **Sec. 7.** (1) An individual may refuse to make an  
31 anatomical gift of the individual's body or part by:

32 (a) A record signed by:

33 (i) The individual; or

34 (ii) Subject to subsection (2) of this section, another individual  
35 acting at the direction of the individual if the individual is  
36 physically unable to sign;

1 (b) The individual's will, whether or not the will is admitted to  
2 probate or invalidated after the individual's death; or

3 (c) Any form of communication made by the individual during the  
4 individual's terminal illness or injury addressed to at least two  
5 adults, at least one of whom is a disinterested witness.

6 (2) A record signed pursuant to subsection (1)(a)(ii) of this  
7 section must:

8 (a) Be witnessed by at least two adults, at least one of whom is a  
9 disinterested witness, who have signed at the request of the  
10 individual; and

11 (b) State that it has been signed and witnessed as provided in (a)  
12 of this subsection.

13 (3) An individual who has made a refusal may amend or revoke the  
14 refusal:

15 (a) In the manner provided in subsection (1) of this section for  
16 making a refusal;

17 (b) By subsequently making an anatomical gift pursuant to section  
18 5 of this act that is inconsistent with the refusal; or

19 (c) By destroying or canceling the record evidencing the refusal,  
20 or the portion of the record used to make the refusal, with the intent  
21 to revoke the refusal.

22 (4) Except as otherwise provided in section 8(8) of this act, in  
23 the absence of an express, contrary indication by the individual set  
24 forth in the refusal, an individual's unrevoked refusal to make an  
25 anatomical gift of the individual's body or part bars all other persons  
26 from making an anatomical gift of the individual's body or part.

27 NEW SECTION. **Sec. 8.** (1) Except as otherwise provided in  
28 subsection (7) of this section and subject to subsection (6) of this  
29 section, in the absence of an express, contrary indication by the  
30 donor, a person other than the donor is barred from making, amending,  
31 or revoking an anatomical gift of a donor's body or part if the donor  
32 made an anatomical gift of the donor's body or part under section 5 of  
33 this act or an amendment to an anatomical gift of the donor's body or  
34 part under section 6 of this act.

35 (2) A donor's revocation of an anatomical gift of the donor's body  
36 or part under section 6 of this act is not a refusal and does not bar

1 another person specified in section 4 or 9 of this act from making an  
2 anatomical gift of the donor's body or part under section 5 or 10 of  
3 this act.

4 (3) If a person other than the donor makes an unrevoked anatomical  
5 gift of the donor's body or part under section 5 of this act or an  
6 amendment to an anatomical gift of the donor's body or part under  
7 section 6 of this act, another person may not make, amend, or revoke  
8 the gift of the donor's body or part under section 10 of this act.

9 (4) A revocation of an anatomical gift of a donor's body or part  
10 under section 6 of this act by a person other than the donor does not  
11 bar another person from making an anatomical gift of the body or part  
12 under section 5 or 10 of this act.

13 (5) In the absence of an express, contrary indication by the donor  
14 or other person authorized to make an anatomical gift under section 4  
15 of this act, an anatomical gift of a part is neither a refusal to give  
16 another part nor a limitation on the making of an anatomical gift of  
17 another part at a later time by the donor or another person.

18 (6) In the absence of an express, contrary indication by the donor  
19 or other person authorized to make an anatomical gift under section 4  
20 of this act, an anatomical gift of a part for one or more of the  
21 purposes set forth in section 4 of this act is not a limitation on the  
22 making of an anatomical gift of the part for any of the other purposes  
23 by the donor or any other person under section 5 or 10 of this act.

24 (7) If a donor who is an unemancipated minor dies, a parent of the  
25 donor who is reasonably available may revoke or amend an anatomical  
26 gift of the donor's body or part.

27 (8) If an unemancipated minor who signed a refusal dies, a parent  
28 of the minor who is reasonably available may revoke the minor's  
29 refusal.

30 NEW SECTION. **Sec. 9.** (1) Subject to subsections (2) and (3) of  
31 this section and unless barred by section 7 or 8 of this act, an  
32 anatomical gift of a decedent's body or part may be made by any member  
33 of the following classes of persons who is reasonably available, in the  
34 order of priority listed:

35 (a) An agent of the decedent at the time of death who could have  
36 made an anatomical gift under section 4(2) of this act immediately  
37 before the decedent's death;

- 1 (b) The spouse of the decedent;  
2 (c) Adult children of the decedent;  
3 (d) Parents of the decedent;  
4 (e) Adult siblings of the decedent;  
5 (f) Adult grandchildren of the decedent;  
6 (g) Grandparents of the decedent;  
7 (h) The persons who were acting as the guardians of the person of  
8 the decedent at the time of death; and  
9 (i) Any other person having the authority under applicable law to  
10 dispose of the decedent's body.

11 (2) If there is more than one member of a class listed in  
12 subsection (1)(a), (c), (d), (e), (f), (g), or (h) of this section  
13 entitled to make an anatomical gift, an anatomical gift may be made by  
14 a member of the class unless that member or a person to which the gift  
15 may pass under section 11 of this act knows of an objection by another  
16 member of the class. If an objection is known, the gift may be made  
17 only by a majority of the members of the class who are reasonably  
18 available.

19 (3) A person may not make an anatomical gift if, at the time of the  
20 decedent's death, a person in a prior class under subsection (1) of  
21 this section is reasonably available to make or to object to the making  
22 of an anatomical gift.

23 NEW SECTION. **Sec. 10.** (1) A person authorized to make an  
24 anatomical gift under section 9 of this act may make an anatomical gift  
25 by a document of gift signed by the person making the gift or by that  
26 person's oral communication that is electronically recorded or is  
27 contemporaneously reduced to a record and signed by the individual  
28 receiving the oral communication.

29 (2) Subject to subsection (3) of this section, an anatomical gift  
30 by a person authorized under section 9 of this act may be amended or  
31 revoked orally or in a record by any member of a prior class who is  
32 reasonably available. If more than one member of the prior class is  
33 reasonably available, the gift made by a person authorized under  
34 section 9 of this act may be:

35 (a) Amended only if a majority of the reasonably available members  
36 agree to the amending of the gift; or

1 (b) Revoked only if a majority of the reasonably available members  
2 agree to the revoking of the gift or if they are equally divided as to  
3 whether to revoke the gift.

4 (3) A revocation under subsection (2) of this section is effective  
5 only if, before an incision has been made to remove a part from the  
6 donor's body or before invasive procedures have begun to prepare the  
7 recipient, the procurement organization, transplant hospital, or  
8 physician or technician knows of the revocation.

9 NEW SECTION. **Sec. 11.** (1) An anatomical gift may be made to the  
10 following persons named in the document of gift:

11 (a) A hospital; an accredited medical school, dental school,  
12 college, or university; an organ procurement organization; or other  
13 appropriate person, for research or education;

14 (b) Subject to subsection (2) of this section, an individual  
15 designated by the person making the anatomical gift if the individual  
16 is the recipient of the part;

17 (c) An eye bank or tissue bank.

18 (2) If an anatomical gift to an individual under subsection (1)(b)  
19 of this section cannot be transplanted into the individual, the part  
20 passes in accordance with subsection (7) of this section in the absence  
21 of an express, contrary indication by the person making the anatomical  
22 gift.

23 (3) If an anatomical gift of one or more specific parts or of all  
24 parts is made in a document of gift that does not name a person  
25 described in subsection (1) of this section but identifies the purpose  
26 for which an anatomical gift may be used, the following rules apply:

27 (a) If the part is an eye and the gift is for the purpose of  
28 transplantation or therapy, the gift passes to the appropriate eye  
29 bank.

30 (b) If the part is tissue and the gift is for the purpose of  
31 transplantation or therapy, the gift passes to the appropriate tissue  
32 bank.

33 (c) If the part is an organ and the gift is for the purpose of  
34 transplantation or therapy, the gift passes to the appropriate organ  
35 procurement organization as custodian of the organ.

36 (d) If the part is an organ, an eye, or tissue and the gift is for

1 the purpose of research or education, the gift passes to the  
2 appropriate procurement organization.

3 (4) For the purpose of subsection (3) of this section, if there is  
4 more than one purpose of an anatomical gift set forth in the document  
5 of gift but the purposes are not set forth in any priority, the gift  
6 must be used for transplantation or therapy, if suitable. If the gift  
7 cannot be used for transplantation or therapy, the gift may be used for  
8 research or education.

9 (5) If an anatomical gift of one or more specific parts is made in  
10 a document of gift that does not name a person described in subsection  
11 (1) of this section and does not identify the purpose of the gift, the  
12 gift may be used only for transplantation or therapy, and the gift  
13 passes in accordance with subsection (7) of this section.

14 (6) If a document of gift specifies only a general intent to make  
15 an anatomical gift by words such as "donor," "organ donor," or "body  
16 donor," or by a symbol or statement of similar import, the gift may be  
17 used only for transplantation or therapy, and the gift passes in  
18 accordance with subsection (7) of this section.

19 (7) For purposes of subsections (2), (5), and (6) of this section  
20 the following rules apply:

21 (a) If the part is an eye, the gift passes to the appropriate eye  
22 bank.

23 (b) If the part is tissue, the gift passes to the appropriate  
24 tissue bank.

25 (c) If the part is an organ, the gift passes to the appropriate  
26 organ procurement organization as custodian of the organ.

27 (8) An anatomical gift of an organ for transplantation or therapy,  
28 other than an anatomical gift under subsection (1)(b) of this section,  
29 passes to the organ procurement organization as custodian of the organ.

30 (9) If an anatomical gift does not pass pursuant to subsections (1)  
31 through (8) of this section or the decedent's body or part is not used  
32 for transplantation, therapy, research, or education, custody of the  
33 body or part passes to the person under obligation to dispose of the  
34 body or part.

35 (10) A person may not accept an anatomical gift if the person knows  
36 that the gift was not effectively made under section 5 or 10 of this  
37 act or if the person knows that the decedent made a refusal under  
38 section 7 of this act that was not revoked. For purposes of this

1 subsection (10), if a person knows that an anatomical gift was made on  
2 a document of gift, the person is deemed to know of any amendment or  
3 revocation of the gift or any refusal to make an anatomical gift on the  
4 same document of gift.

5 (11) Except as otherwise provided in subsection (1)(b) of this  
6 section, nothing in this chapter affects the allocation of organs for  
7 transplantation or therapy.

8 NEW SECTION. **Sec. 12.** (1) The following persons shall make a  
9 reasonable search of an individual who the person reasonably believes  
10 is dead or near death for a document of gift or other information  
11 identifying the individual as a donor or as an individual who made a  
12 refusal:

13 (a) A law enforcement officer, firefighter, paramedic, or other  
14 emergency personnel finding the individual; and

15 (b) If no other source of the information is immediately available,  
16 a hospital, as soon as practical after the individual's arrival at the  
17 hospital.

18 (2) If a document of gift or a refusal to make an anatomical gift  
19 is located by the search required by subsection (1)(a) of this section  
20 and the individual or deceased individual to whom it relates is taken  
21 to a hospital, the person responsible for conducting the search shall  
22 send the document of gift or refusal to the hospital.

23 NEW SECTION. **Sec. 13.** (1) A document of gift need not be  
24 delivered during the donor's lifetime to be effective.

25 (2) Upon or after an individual's death, a person in possession of  
26 a document of gift or a refusal to make an anatomical gift with respect  
27 to the individual shall allow examination and copying of the document  
28 of gift or refusal by a person authorized to make or object to the  
29 making of an anatomical gift with respect to the individual or by a  
30 person to which the gift could pass under section 11 of this act.

31 NEW SECTION. **Sec. 14.** (1) When a hospital refers an individual at  
32 or near death to a procurement organization, the organization shall  
33 make a reasonable search of the records of the department of licensing  
34 and any donor registry that it knows exists for the geographical area

1 in which the individual resides to ascertain whether the individual has  
2 made an anatomical gift.

3 (2) A procurement organization must be allowed reasonable access to  
4 information in the records of the department of licensing to ascertain  
5 whether an individual at or near death is a donor.

6 (3) When a hospital refers an individual at or near death to a  
7 procurement organization, the organization may conduct any reasonable  
8 examination necessary to ensure the medical suitability of a part that  
9 is or could be the subject of an anatomical gift for transplantation,  
10 therapy, research, or education from a donor or a prospective donor.  
11 During the examination period, measures necessary to ensure the medical  
12 suitability of the part may not be withdrawn unless the hospital or  
13 procurement organization knows that the individual expressed a contrary  
14 intent.

15 (4) Unless prohibited by law other than this chapter, at any time  
16 after a donor's death, the person to which a part passes under section  
17 11 of this act may conduct any reasonable examination necessary to  
18 ensure the medical suitability of the body or part for its intended  
19 purpose.

20 (5) Unless prohibited by law other than this chapter, an  
21 examination under subsection (3) or (4) of this section may include an  
22 examination of all medical records of the donor or prospective donor.

23 (6) Upon the death of a minor who was a donor or had signed a  
24 refusal, unless a procurement organization knows the minor is  
25 emancipated, the procurement organization shall conduct a reasonable  
26 search for the parents of the minor and provide the parents with an  
27 opportunity to revoke or amend the anatomical gift or revoke the  
28 refusal.

29 (7) Upon referral by a hospital under subsection (1) of this  
30 section, a procurement organization shall make a reasonable search for  
31 any person listed in section 9 of this act having priority to make an  
32 anatomical gift on behalf of a prospective donor. If a procurement  
33 organization receives information that an anatomical gift to any other  
34 person was made, amended, or revoked, it shall promptly advise the  
35 other person of all relevant information.

36 (8) Subject to sections 11(9) and 22 of this act, the rights of the  
37 person to which a part passes under section 11 of this act are superior  
38 to the rights of all others with respect to the part. The person may

1 accept or reject an anatomical gift in whole or in part. Subject to  
2 the terms of the document of gift and this chapter, a person that  
3 accepts an anatomical gift of an entire body may allow embalming,  
4 burial, or cremation, and use of remains in a funeral service. If the  
5 gift is of a part, the person to which the part passes under section 11  
6 of this act, upon the death of the donor and before embalming, burial,  
7 or cremation, shall cause the part to be removed without unnecessary  
8 mutilation.

9 (9) Neither the physician who attends the decedent at death nor the  
10 physician who determines the time of the decedent's death may  
11 participate in the procedures for removing or transplanting a part from  
12 the decedent.

13 (10) A physician or technician may remove a donated part from the  
14 body of a donor that the physician or technician is qualified to  
15 remove.

16 NEW SECTION. **Sec. 15.** Each hospital in this state shall enter  
17 into agreements or affiliations with procurement organizations for  
18 coordination of procurement and use of anatomical gifts.

19 NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in  
20 subsection (2) of this section, a person who, for valuable  
21 consideration, knowingly purchases or sells a part for transplantation  
22 or therapy if removal of a part from an individual is intended to occur  
23 after the individual's death is guilty of a class C felony under RCW  
24 9A.20.010.

25 (2) A person may charge a reasonable amount for the removal,  
26 processing, preservation, quality control, storage, transportation,  
27 implantation, or disposal of a part.

28 NEW SECTION. **Sec. 17.** A person who, in order to obtain financial  
29 gain, intentionally falsifies, forges, conceals, defaces, or  
30 obliterates a document of gift, an amendment or revocation of a  
31 document of gift, or a refusal is guilty of a class C felony under RCW  
32 9A.20.010.

33 NEW SECTION. **Sec. 18.** (1) A person who acts in accordance with

1 this chapter or with the applicable anatomical gift law of another  
2 state, or attempts in good faith to do so, is not liable for the act in  
3 a civil action, criminal prosecution, or administrative proceeding.

4 (2) Neither the person making an anatomical gift nor the donor's  
5 estate is liable for any injury or damage that results from the making  
6 or use of the gift.

7 (3) In determining whether an anatomical gift has been made,  
8 amended, or revoked under this chapter, a person may rely upon  
9 representations of an individual listed in section 9(1) (b) through (g)  
10 of this act relating to the individual's relationship to the donor or  
11 prospective donor unless the person knows that the representation is  
12 untrue.

13 NEW SECTION. **Sec. 19.** (1) A document of gift is valid if executed  
14 in accordance with:

15 (a) This chapter;

16 (b) The laws of the state or country where it was executed; or

17 (c) The laws of the state or country where the person making the  
18 anatomical gift was domiciled, has a place of residence, or was a  
19 national at the time the document of gift was executed.

20 (2) If a document of gift is valid under this section, the law of  
21 this state governs the interpretation of the document of gift.

22 (3) A person may presume that a document of gift or amendment of an  
23 anatomical gift is valid unless that person knows that it was not  
24 validly executed or was revoked.

25 NEW SECTION. **Sec. 20.** (1) The definitions in this subsection  
26 apply throughout this section unless the context clearly requires  
27 otherwise.

28 (a) "Advance health care directive" means a power of attorney for  
29 health care or a record signed by a prospective donor containing the  
30 prospective donor's direction concerning a health care decision for the  
31 prospective donor.

32 (b) "Declaration" means a record signed by a prospective donor  
33 specifying the circumstances under which a life support system may be  
34 withheld or withdrawn from the prospective donor.

35 (c) "Health care decision" means any decision made regarding the  
36 health care of the prospective donor.

1 (2) If a prospective donor has a declaration or advance health care  
2 directive, measures necessary to ensure the medical suitability of an  
3 organ for transplantation or therapy may not be withheld or withdrawn  
4 from the prospective donor, unless the declaration expressly provides  
5 to the contrary.

6 NEW SECTION. **Sec. 21.** (1) A coroner or medical examiner shall  
7 cooperate with procurement organizations to maximize the opportunity to  
8 recover anatomical gifts for the purpose of transplantation, therapy,  
9 research, or education.

10 (2) If a coroner or medical examiner receives notice from a  
11 procurement organization that an anatomical gift might be available or  
12 was made with respect to a decedent whose body is under the  
13 jurisdiction of the coroner or medical examiner and a postmortem  
14 examination is going to be performed, unless the coroner or medical  
15 examiner denies recovery in accordance with section 22 of this act, the  
16 coroner or medical examiner or a designee shall conduct a postmortem  
17 examination of the body or the part in a manner and within a period  
18 compatible with its preservation for the purposes of the gift.

19 (3) A part may not be removed from the body of a decedent under the  
20 jurisdiction of a coroner or medical examiner for transplantation,  
21 therapy, research, or education unless the part is the subject of an  
22 anatomical gift. The body of a decedent under the jurisdiction of the  
23 coroner or medical examiner may not be delivered to a person for  
24 research or education unless the body is the subject of an anatomical  
25 gift. This subsection (3) does not preclude a coroner or medical  
26 examiner from performing the medicolegal investigation upon the body or  
27 parts of a decedent under the jurisdiction of the coroner or medical  
28 examiner.

29 NEW SECTION. **Sec. 22.** (1) Upon request of a procurement  
30 organization, a coroner or medical examiner shall release to the  
31 procurement organization the name, contact information, and available  
32 medical and social history of a decedent whose body is under the  
33 jurisdiction of the coroner or medical examiner. If the decedent's  
34 body or part is medically suitable for transplantation, therapy,  
35 research, or education, the coroner or medical examiner shall release  
36 postmortem examination results to the procurement organization. The

1 procurement organization may make a subsequent disclosure of the  
2 postmortem examination results or other information received from the  
3 coroner or medical examiner only if relevant to transplantation or  
4 therapy.

5 (2) The coroner or medical examiner may conduct a medicolegal  
6 examination by reviewing all medical records, laboratory test results,  
7 x-rays, other diagnostic results, and other information that any person  
8 possesses about a donor or prospective donor whose body is under the  
9 jurisdiction of the coroner or medical examiner that the coroner or  
10 medical examiner determines may be relevant to the investigation.

11 (3) A person that has any information requested by a coroner or  
12 medical examiner under subsection (2) of this section shall provide  
13 that information as expeditiously as possible to allow the coroner or  
14 medical examiner to conduct the medicolegal investigation within a  
15 period compatible with the preservation of parts for the purpose of  
16 transplantation, therapy, research, or education.

17 (4) If an anatomical gift has been or might be made of a part of a  
18 decedent whose body is under the jurisdiction of the coroner or medical  
19 examiner and a postmortem examination is not required, or the coroner  
20 or medical examiner determines that a postmortem examination is  
21 required but that the recovery of the part that is the subject of an  
22 anatomical gift will not interfere with the examination, the coroner or  
23 medical examiner and procurement organization shall cooperate in the  
24 timely removal of the part from the decedent for the purpose of  
25 transplantation, therapy, research, or education.

26 (5) If an anatomical gift of a part from the decedent under the  
27 jurisdiction of the coroner or medical examiner has been or might be  
28 made, but the coroner or medical examiner initially believes that the  
29 recovery of the part could interfere with the postmortem investigation  
30 into the decedent's cause or manner of death, the coroner or medical  
31 examiner shall consult with the procurement organization or physician  
32 or technician designated by the procurement organization about the  
33 proposed recovery. After consultation, the coroner or medical examiner  
34 may allow the recovery.

35 (6) Following the consultation under subsection (5) of this  
36 section, in the absence of mutually agreed-upon protocols to resolve  
37 conflict between the coroner or medical examiner and the procurement  
38 organization, if the coroner or medical examiner intends to deny

1 recovery, the coroner or medical examiner or a designee, at the request  
2 of the procurement organization, shall attend the removal procedure for  
3 the part before making a final determination not to allow the  
4 procurement organization to recover the part. During the removal  
5 procedure, the coroner or medical examiner or a designee may allow  
6 recovery by the procurement organization to proceed, or, if the coroner  
7 or medical examiner or a designee reasonably believes that the part may  
8 be involved in determining the decedent's cause or manner of death,  
9 deny recovery by the procurement organization.

10 (7) If the coroner or medical examiner or a designee denies  
11 recovery under subsection (6) of this section, the coroner or medical  
12 examiner or a designee shall:

13 (a) Explain in a record the specific reasons for not allowing  
14 recovery of the part;

15 (b) Include the specific reasons in the records of the coroner or  
16 medical examiner; and

17 (c) Provide a record with the specific reasons to the procurement  
18 organization.

19 (8) If the coroner or medical examiner or a designee allows  
20 recovery of a part under subsection (4), (5), or (6) of this section,  
21 the procurement organization, upon request, shall cause the physician  
22 or technician who removes the part to provide the coroner or medical  
23 examiner with a record describing the condition of the part, a biopsy,  
24 a photograph, and any other information and observations that would  
25 assist in the postmortem examination.

26 (9) If a coroner or medical examiner or a designee is required to  
27 be present at a removal procedure under subsection (6) of this section,  
28 upon request the procurement organization requesting the recovery of  
29 the part shall reimburse the coroner or medical examiner or a designee  
30 for the additional costs incurred in complying with subsection (6) of  
31 this section.

32 NEW SECTION. **Sec. 23.** In applying and construing this uniform  
33 act, consideration must be given to the need to promote uniformity of  
34 the law with respect to its subject matter among states that enact it.

35 NEW SECTION. **Sec. 24.** This chapter modifies, limits, and  
36 supersedes the federal electronic signatures in global and national

1 commerce act (15 U.S.C. Sec. 7001 et seq.) with respect to electronic  
2 signatures and anatomical gifts, but does not modify, limit, or  
3 supersede section 101 of that act (15 U.S.C. Sec. 7001), or authorize  
4 electronic delivery of any of the notices described in section 103(b)  
5 of that act (15 U.S.C. Sec. 7003(b)).

6 NEW SECTION. **Sec. 25.** Sections 1 through 24 of this act  
7 constitute a new chapter in Title 68 RCW.

8 NEW SECTION. **Sec. 26.** The following acts or parts of acts are  
9 each repealed:

10 (1) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and  
11 1993 c 228 s 1;

12 (2) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s  
13 2, 1996 c 178 s 15, & 1993 c 228 s 2;

14 (3) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--  
15 Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;

16 (4) RCW 68.50.550 (Anatomical gifts--By person other than decedent)  
17 and 1993 c 228 s 4;

18 (5) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--  
19 Liability) and 1993 c 228 s 5;

20 (6) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;

21 (7) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery)  
22 and 1993 c 228 s 7;

23 (8) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of  
24 death--Actions by technician, enucleator) and 1993 c 228 s 8;

25 (9) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and use  
26 coordination) and 1993 c 228 s 9;

27 (10) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--  
28 Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and

29 (11) RCW 68.50.620 (Anatomical gifts--Examination for medical  
30 acceptability--Jurisdiction of coroner, medical examiner--Liability  
31 limited) and 1993 c 228 s 11.

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